

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELIZABETH COBLE,
MILAGROS HARPER, and
DENNIS HARPER,
on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

COHEN & SLAMOWITZ, LLP,
DAVID COHEN, ESQ.,
MITCHELL SLAMOWITZ, ESQ.,
LEANDRE JOHN, ESQ., and
CRYSTAL S.A. SCOTT, ESQ.,

Defendants.

11-cv-1037 (ER)(GAY)

**SUPPLEMENTAL DECLARATION OF
DANIEL A. SCHLANGER, ESQ. IN
SUPPORT OF PLAINTIFFS' MOTION TO
AMEND THE COMPLAINT**

**HON. EDGARDO RAMOS
HON. GEORGE A. YANTHIS**

DANIEL A. SCHLANGER, an attorney duly licensed to practice law in the State of New York,
does hereby affirm under the penalty of perjury:

1. I am a partner at Schlanger & Schlanger, LLP, co-counsel for Plaintiffs and, as such, am familiar with the facts and documents relevant to this dispute.
2. I make this supplemental declaration in order to provide a minor, non-substantive supplement/correction to Plaintiff's Motion to Amend the Complaint, which was filed on 1/4/12.
3. In Section II(C) of Plaintiffs' Memorandum of Law, Plaintiffs cite to several statements made by Defendants' 30(b)(6) witness, Defendant Leandre John, with regard to Defendants' ability to run various types of computer reports. MOL at p. 18-19.
4. Per my First Declaration in support of the motion, the supporting deposition excerpts were not attached because they were to be filed under seal pursuant to the confidentiality agreement between the parties (so ordered by this Court on 8/13/12).

5. Defendants have since confirmed that they are not seeking to designate Mr. John's entire transcript confidential, but only specific portions not at issue on this motion (e.g. regarding Defendants' net worth).
6. For this reason, I am attaching here an unredacted/unsealed copy of **Exhibit D** to Plaintiffs' motion, containing the relevant excerpts of the transcript of the deposition of Leandre John, Defendants' 30(b)(6) witness, dated December 14, 2012.

Dated: New York, New York
January 10, 2013

Respectfully Submitted,

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Counsel for Plaintiffs

EXHIBIT D

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

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4 ELIZABETH COBLE, MILAGROS HARPER
5 and DENNIS HARPER, on behalf of
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8 Plaintiffs,

9 v.

11-CV-01037 (JFM)

10 COHEN & SLAMOWITZ, LLP,
11 DAVID COHEN, ESQ.,
12 MITCHELL SLAMOWITZ, ESQ.
13 LEANDRE JOHN, ESQ.,
14 CRYSTAL S.A. SCOTT, ESQ.

15 Defendants.

-----x

13 December 14, 2012
14 9:30 a.m.

15
16 Deposition of LEANDRE JOHN, taken by
17 plaintiffs, pursuant to Rule 30(b)(6), at the
18 offices of Schlanger & Schlanger, 9 East 40th
19 Street, New York, NY 10016, before Joseph B.
20 Pirozzi, a Registered Professional Reporter
21 and Notary Public of the State of New York.
22
23
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technology staff.

Q. Anything else?

A. No.

Q. Is there an administrative staff that works with the attorneys?

A. Yes. That's our legal support staff.

Q. Is there some administrative group that is with the collection staff?

A. Yes, our clerical staff.

Q. How many accounting staff are there?

A. There is approximately 25.

Q. How many Human Resources staff?

A. Two.

Q. How many research staff?

A. 12, approximately.

Q. How many legal support staff?

A. Approximately 20.

Q. Are they broken out between clerical and paralegal staff?

A. Legal assistants, clerks, paralegals.

Q. How many legal assistants are

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Q. Who would you ask to do that?

A. I'd probably ask my IT staff. My information technology staff.

Q. What are the names of the people in the information technology staff?

A. There is a Keith Bush, Edward Wilkinson.

Q. Is there a person on that staff who typically works with the litigation staff?

A. No.

Q. When had the current database been put in place at Cohen & Slamowitz?

A. I don't really understand the question.

Q. How long have they used that database at Cohen & Slamowitz?

A. Since it was put in place.

Q. When did you start using it at Cohen & Slamowitz?

A. We're talking about a database. Our main frame system evolved. If you remove a hard drive from the server, it changes. It's not like some monolithic type of thing

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where you can say it was here today on this date, but not here tomorrow.

I don't really understand your question.

Q. It's always been the same database, correct?

MR. LEGHORN: Objection. Form.

Q. I understand it changes from time to time, but it is the same piece of hardware?

MR. LEGHORN: Objection. I'm objecting to form because you are using the vernacular database, if that's synonymous with hardware and software. Database is where it is held within, and I think that's where the difference is.

Q. Has there always been a database at Cohen & Slamowitz going back to 2002?

A. Yes.

Q. Has that database always contained records for each case, that is, filed with the litigation staff?

A. How are we defining database?

Q. The system, the main frame system

1 judgment -- the judgment was ultimately
2 vacated at some other time or there was some
3 sort of consent to vacate in connection with
4 the settlement as a courtesy to our -- as a
5 courtesy to defendant or their counsel that
6 after a judgment was paid, it vacated, so it
7 would be hard -- we probably would have to
8 review the files manually.

9
10 Q. Would Cohen & Slamowitz record
11 judgments it obtains in its database?

12 A. Yes.

13 Q. Would that record be maintained in
14 the database to the best of your knowledge?

15 A. Yes, it would be maintained in the
16 database.

17 Q. Let me ask you again. Would it be
18 possible to generate a list of the cases
19 filed by Cohen & Slamowitz that resulted in a
20 judgment, putting aside whether or not the
21 judgment remains in place in the database?

22 A. Are you saying generate a list
23 where a judgment was obtained regardless at
24 one time there was a judgment? I'm sure that
25 would be possible.

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Q. Would it be possible to distinguish between default judgments and litigated judgments in the database?

A. I'm not sure if it would be possible. I'm not sure. Because you could have a situation where a default judgment was obtained and vacated by consent to the parties and then a subsequent judgment was obtained by summary judgment or subsequent default in failing to interpose an answer.

Q. If a judgment is entered by default, would that fact be entered into Cohen & Slamowitz's system?

A. Yes.

Q. Mr. John, what did you do to prepare for today's deposition?

A. Read over the notice of deposition.

Q. Anything else?

MR. LEGHORN: Other than with counsel he means.

A. Consulted with counsel.

Q. Anything else?

A. Consulted with the deposition

Q. I'm asking a general question about whether the name of the process serving company goes into Cohen & Slamowitz's system?

A. Well, it's different. Now, yes.

Q. At what point did Cohen & Slamowitz start to input information about the name of the process serving company into the system?

A. I think it was, we always input the name -- our information about the process serving company into the system.

Q. And is the name of the individual who actually makes service input into Cohen & Slamowitz's electronic system?

A. Now it is, yes.

Q. And when did that change?

A. I'd say over the past maybe two years.

Q. And why did it change?

A. I guess it changed because we had the ability to input more information into our system. And in connection with upgrades that we made to our generally service process, the processing which we utilized

1 process servers, we are able to communicate
2 with them in a way where that information
3 could be electronically transmitted to us.
4 So there is ease of exchange of data between
5 the process servers. And generally the cost
6 of memory and data has gone down a lot over
7 the last four or five years. So it's easier
8 for our system to accommodate more data in it
9 in a way that wouldn't slow down our computer
10 systems at a reasonable cost and makes it
11 cost effective as well.
12

13 Q. Is it possible to generate a list
14 of complaints filed by Cohen & Slamowitz
15 where service was made by nail and mail?

16 A. I believe it is possible.

17 Q. Is it possible to maintain -- I'm
18 sorry. Is it possible to obtain a list at
19 Cohen and -- start this question again.

20 Is it possible to obtain a list at
21 Cohen & Slamowitz of complaints where service
22 was made by Midlantic process server?

23 A. I need it read back.

24 Q. Let me ask the question -- I
25 withdraw that question.

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Q. And how is data archived at Cohen & Slamowitz?

A. Some is archived at, on servers, hard drives, tapes.

Q. Is it possible for employees of Cohen & Slamowitz to access archived data?

A. Yes.

Q. Does Cohen & Slamowitz maintain paper records associated with cases?

A. In some cases.

Q. Which cases?

A. Active litigation filings.

Q. What happens to those records when the cases are closed?

A. They are scanned into our system.

Q. And archived as you described?

A. After a period of time, yes.

Q. What system does Cohen & Slamowitz use to back up its data?

A. They use several systems. They have third-party software, they have proprietary software.

Q. Is it possible to bring information from the backup onto Cohen &

Slamowitz's system?

A. Onto Cohen & Slamowitz's system?

Q. Yes.

A. What do you mean?

Q. The system that Cohen & Slamowitz
uses to store information?

MR. LEGHORN: Including backup.

That's what his --

A. The archive is part of the system
as well.

Q. Let me rephrase the question. Is
it possible to bring backed up information
back into Cohen & Slamowitz's active system?

A. Yes.

Q. Is it possible to bring archived
information back into Cohen & Slamowitz
active system?

A. Yes.

Q. When Cohen & Slamowitz obtains a
judgment on behalf of a client, how does that
judgment get processed for further collection
activity?

A. Once the judgment is obtained,
it's entered into our system. From that

and there was no contact between the judgment debtor and Cohen & Slamowitz, would Cohen & Slamowitz vacate the judgment?

A. Most likely.

MR. KLEIN: Let's take a break.

(Recess)

EXAMINATION CONTINUED

BY MR. KLEIN:

Q. Mr. John, we're back on the record after a break and I want to remind you again that you are still under oath.

When there is collection activity after a judgment is entered, is that collection activity, the nature of that collection activity stored in the same system as the litigation activity we have been discussing?

A. Yes.

Q. And is it retrievable by file number and the other information we have been discussing is?

A. Yes.

Q. And that would include garnishment related activities?